



CITY OF MEMPHIS

COUNCIL AGENDA

August 19, 2008

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

CALL TO ORDER by the Sergeant-at-Arms

INVOCATION

PLEDGE OF ALLEGIANCE

CALL OF ROLL by the Comptroller

APPROVAL OF PREVIOUS MEETING MINUTES (August 5, 2008)

ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

CONSENT AGENDA

GENERAL ORDINANCES - FIRST READING (None)

GENERAL ORDINANCES - SECOND READING

1. **ORDINANCE** to amend previous Ordinance No. 4388, codified as City Code, Title 6, Chapter 6-92, Section 6-92-1, ET. SEQ., so as to revise Section 6-92-11, Subsection (A) to allow said Title 6, Chapter 6-92 to remain in full and effect until December 31, 2008, up for S E C O N D reading.

Flinn

Ordinance No. 5270

ACTION REQUESTED: Adopt the ordinance on Second reading

2. **ORDINANCE** to amend Chapter 2, Code of Ordinances, City of Memphis, by amending Section 2-228 (asphaltic binder paving of streets constructed as part of standard improvement contracts; costs), to include the requirement for provision of the surface course of pavement and street striping by the developer and to implement a warranty requirement for the infrastructure constructed as part of the City standard improvement contract, so as to enhance the long-term stability and durability of roadways being constructed, up for S E C O N D reading.

Morrison

Ordinance No. 5271

ACTION REQUESTED: Adopt the ordinance on Second reading

ZONING ORDINANCES - FIRST READING

3. **ORDINANCE** rezoning the east side of Quince Road; +/-60 feet north of Kirby Gate Boulevard, containing 5.878 acres in the Single Family Residential Flood Plain (R-S10{FP}) and Floodway (FW) Districts, up for F I R S T reading.

Lowery

Ordinance No. 5273

Case No. Z 07-118

Companion Case: PD 07-331

Applicant: Wills and Wills L.P. (Walter Wills)
Fisher and Arnold (Jud Te Paske) – Representative

Request: Single Family Residential (R-S10) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

4. **ORDINANCE** rezoning the southeast corner of James Road and New Raleigh Road, containing 2.1997 acres in the Single Family Residential (R-S6) and Agricultural (AG) District, up for F I R S T reading.

Lowery

Ordinance No. 5274

Case No. Z 08-105

Applicant: Romelius Kizer/PGBT, LLC
Frank P. Palumbo, Jr. – Doveland Engineering – Representative

Request: Rezone from Agricultural (AG) District to Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

ZONING ORDINANCE - SECOND READING (None)

ENGINEERING

5. **RESOLUTION** approving final plat of BLUFF CITY BUSINESS PARK SUBDIVISION.

Case No. S 07-019

Contract No. CR-5112

Resolution approves the final plat located on the southeast corner of Getwell and Mallory Avenue. Cost of the required improvements to be borne by the developer.

Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

6. RESOLUTION approving final plat of WHITNEY-OVERTON CROSSING C-P, PHASE 3.

Case No. Z 85-106
Contract No. CR-5113

Resolution approves the final plat located at the corner of Whitney and Clifton. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

7. RESOLUTION approving final plat of MEMPHIS INTERMODAL FACILITY DRAINAGE IMPROVEMENTS FOR STREET CLOSURES.

Contract No. CR-5114

at Resolution approves the final plat located on the north side of U.S. Highway 78 the intersection of Pleasant Hill Road. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATIONS FROM OPD

8. NOTATIONS from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

A. Case No. PD 08-317 – Crumpler Park P.D., Amended

Located on the east side of Crumpler Road; +/-220 feet north of Pine Meadow Lane, containing 11.53 acres in an area currently governed by Crumpler Park Planned Development (P.D. 98-370)

Applicant: Community Bank, N.A.
Kevin Hyneman Co., Inc./Solomito Land Planning -
Representatives

Request: Planned development to allow General Office (O-G), Planned Commercial (C-P) and limited Light Industrial (I-L) District land uses within the Outline Plan

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

B. Case No. PD 08-318 – Appling/I-40 P.D.

Located on the southeast corner of Reese Road and Appling Road, containing 16.88 acres in an area currently governed by P.D. 99-361cc, Area B

Applicant: Enterprise Rent A Car (Don Austin)
Ronald Harkavy – Representative

Request: Amend Area B to permit an Executive Office for Car Rental Agency with additional parking to support its operation and above ground fuel storage

LUCB and OPD recommendation: APPROVAL, with conditions

C. Case No. PD 07-334 – Evergreen Senior Living P.D.

Located on the north side of Vollintine Avenue between Evergreen Street and Hawthorne Street, containing 2.81 acres in the Single Family Residential (R-S6) District

Applicant: Church of God in Christ
Vanecia Belser Kimbrow, Esq. & Charles Goforth, Barge,
Waggoner, Sumner & Cannon – Representatives

Request: Senior Housing – 117 apartment units

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: September 9, 2008



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MLGW FISCAL CONSENT

9. RESOLUTION approving the selection of NEPC, LLC, as investment management consultant for benefit of the MLGW Retirement and Pension Fund, in the amount of \$249,000.00 plus travel, under Contract No. 11295. (Held from 6/17; 7/1; 8/5)
10. RESOLUTION awarding Contract No. 11282, Erosion Revetment Matting Installation, to Submar, Inc. in a funded amount not to exceed \$40,857.00.
11. RESOLUTION awarding Contract No. 11286, Sheahan Pumping Station HVAC Upgrade, to CS3, Inc. in a funded amount not to exceed \$96,400.00
12. RESOLUTION awarding Contract No. 11288, Lichterman Filter Media Replacement, to Grinder Building Corporation in a funded amount not to exceed \$292,950.00.
13. RESOLUTION approving Change No. 6 to Contract No. 10923, Workers' Compensation Claims Administrator, with Brentwood Services in the amount of \$13,000.00, with no increase in fees. (This extends the current contract term effective September 1, 2008 to November 30, 2008.)
14. RESOLUTION approving Change No. 7 to Contract No. 10924, Professional Investigating Services, with CDA, Inc. in the funded amount of \$130,870.00. (This extends the current contract for a 90-day period, October 1, 2008 to December 31, 2008.)
15. RESOLUTION approving Change No. 2 to Contract No. 11071, Emergency Aid Agreement, with Davis H. Elliot Construction Company, Inc. in the funded amount of \$290,580.88. (This covers reimbursement of expenses for labor, equipment and meals resulting from the storm of February 5, 2008.)
16. RESOLUTION approving Change No. 1 to Contract No. 11276, Emergency Storm Restoration, with City Utilities in the funded amount of \$90,790.22. (This covers emergency restoration expenses resulting from the storm of February 5, 2008.)
17. RESOLUTION awarding contract for Nasco rain wear to Care Safety, LLC in the amount of \$35,457.44.
18. RESOLUTION awarding contract for Scotsman ice machines and storage bins to Federal Equipment Dealers, Inc. in the amount of \$25,825.00.
19. RESOLUTION awarding contract for wooden dead-end assemblies to HD Supply Utilities, LTD in the amount of \$41,000.00.

20. RESOLUTION approving exercise of option to extend contract with Fullen Dock and Warehouse for an additional 12-month period for furnishing crushed limestone in the amount of \$709,000.00.
21. RESOLUTION approving Contract No. 00070401 between TVA and MLGW to support industrial recruitment, development and expansion of business and industry in the Memphis/Shelby County area, whereby MLGW will make payment to the Memphis Regional Chamber in the amount of \$80,000.00 and TVA will reimburse MLGW in the amount of \$40,000.00.
22. RESOLUTION approving payment of annual subscription fee to the Drinking Water Research Program of the American Water Works Association Research Foundation in the amount of \$50,000.00, for year beginning May 1, 2008.



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REGULAR AGENDA

23.
Flinn

APPOINTMENTS

Animal Shelter Advisory Committee

Appointments

Michelle Buckalew
Allen N. Iskiwitz
Carol Smith Katz
Stephen H. Schwartz

Memphis City Beautiful Commission

Reappointments

Virginia Acuff
Reginald Milton

Memphis and Shelby County Board of Adjustment

Appointments

Zakiyyah M. Langford
Ann W. Langston (Joint Appointment)

GENERAL ORDINANCES – THIRD AND FINAL READING

24.

ORDINANCE to amend the Charter of the City of Memphis, same being Chapter 11 of the Acts of 1879, as amended, pursuant to the provisions of Article 11, Section 9 of the Constitution of the State of Tennessee (Home Rule Amendment), so as to provide for the approval of Deputy Directors by the City Council and to submit the proposed ordinance to the qualified voters of the City of Memphis at the first General State Election to be held November 4, 2008, up for T H I R D and F I N A L reading.

McCormick

Ordinance No. 5267

ACTION REQUESTED: Take whatever action Council deems advisable

25. **ORDINANCE** to amend the Charter of the City of Memphis, same being Chapter 11 of the Acts of 1879, as amended, pursuant to the provisions of Article 11, Section 9 of the Constitution of the State of Tennessee (Home Rule Amendment), so as to provide for the approval of Contracts by the City Council and to submit the proposed ordinance to the qualified voters of the City of Memphis at the first General State Election to be held November 4, 2008, up for T H I R D and F I N A L reading.

McCormick

Ordinance No. 5268

ACTION REQUESTED: Take whatever action Council deems advisable

26. **ORDINANCE** to amend the Charter of the City of Memphis, so as to allow persons employed with the City's Division of Police Services after this date to be exempted from the residency provisions of the Memphis City Charter and allowed to reside within (20) miles of the County line of Shelby County, Tennessee; and provided each non-resident so employed agrees to pay an annual fee to be deducted by payroll on a monthly basis, for as long as each person resides outside of the City and for as long as each such person is so employed by the City and to submit the proposed ordinance to the qualified voters of the City of Memphis at the first General State Election to be held on November 4, 2008, up for T H I R D and F I N A L reading.

Ford

Ordinance No. 5269

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION (None)

EXECUTIVE DIVISION

27. **RESOLUTION** appropriating \$1,140,000.00 in G.O. Bonds General, CIP Project IS01049 to implement enterprise-wide integration of multiple data management systems in order to achieve a common repository of data.

Collins

ACTION REQUESTED: Adopt the resolution

28. **RESOLUTION** appropriating \$375,000.00 in G.O. Bonds General, CIP Project Number IS01053 to develop the requirements, RFP and to assist with vendor selection to replace the obsolete legacy Treasury system.

Collins

ACTION REQUESTED: Adopt the resolution

FINANCE & ADMINISTRATION (None)

DIVISION OF FIRE SERVICES

29. RESOLUTION appropriating \$2,300,480.00 funded by G.O. Bonds General for Fire Station Repair, CIP Project Number FS02001.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

30. RESOLUTION accepting grant funds in the amount of One Million Nine Hundred Twenty Nine Dollars (\$1,000,929.00) from the U.S. Department of Homeland Security – FEMA for the Urban Search and Rescue Task Force to sustain annual readiness funding of Tennessee Task Force One. Resolution also amends the FY 2009 Operating Budget to establish and appropriate grant funds and matching funds in the amount of One Million Nine Hundred Twenty Nine Dollars (\$1,000,929.00).

Hedgepeth

ACTION REQUESTED: Adopt the resolution

DIVISION OF GENERAL SERVICES (None)

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT (None)

DIVISION OF HUMAN RESOURCES (None)

LAW DIVISION (None)

MLGW DIVISION (None)

PARK SERVICES

31. RESOLUTION requesting City Council approval of the agreement between the City of Memphis, Tennessee through its Division of Park Services and the University of Tennessee to provide additional maintenance, security and other enhancements to Park. The initial term for this agreement is to be one (1) year and will be renewable every year unless terminated by either the City or the University of Tennessee.

Forrest

Strickland

ACTION REQUESTED: Adopt the resolution

DIVISION OF POLICE SERVICES

32. RESOLUTION accepting additional grant funds in the amount of \$300,000.00 from the State of Tennessee, Office of Justice Program to continue to implement the Internet Crimes Against Children Initiative to enhance investigations and increase forensic capabilities. Resolution also amends FY 2009 Operating Budget to establish and appropriate \$300,000.00 in grant funds for the FY 09 Fiscal Year.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

33. RESOLUTION requesting that an audit investigation by the Internal Audit Department and/or the Civilian Law Enforcement Review Board be conducted of Memphis Police Department policies, protocols, procedures, citizen complaint processes and Internal Affairs to determine corrective actions which will ensure that the human and civil rights of citizens are protected.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC SERVICES

34. RESOLUTION approving an amendment to the lease agreement with WesPac Pipelines – Memphis, LLC, as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on June 24, 2008.

Collins

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC WORKS (None)

ZONING ORDINANCE – THIRD AND FINAL READING (None)

DIVISION OF PLANNING & DEVELOPMENT

35. RESOLUTION approving a special use permit located on the east side of Cooper Street; +45 feet north of Walker Avenue, containing 0.304 acre in the Local Commercial (C-L) District. (Held from 8/5)

Lowery

Case No. SUP 08-221

Applicant: Kristina Ryan
Charles Ryan – Representative

Request: Use of a portion of a church parking lot (1006 S. Cooper St.) in the C-L District to meet the required parking for a restaurant with alcohol sales (937 S. Cooper St.) in the C-H District

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

36. RESOLUTION approving a two (2) year time extension between Georgia Avenue and West Carolina Avenue, containing 6,502 square feet in the Bluffview Residential (R-B) District.

Lowery

Case No. SAC 06-618

Applicant: Georgia Riverside, LLC

Request: Close and Vacate Street/Alley Street Right-of-Way

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

NO NOTICES WERE REQUIRED

37. RESOLUTION approving a use variance located on the west side of Millbranch Road, 374 feet south of Hester Road intersection, containing 0.32 acre in the Limited Office (O-L) District.

Lowery

Case No. UV 08-06

Applicant: Senrab, Inc.

Request: Beauty/Barber Shop

OPD recommendation: REJECTION

LUCB recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

PUBLIC HEARINGS

38. RESOLUTION approving a planned development located on the north side of E. Shelby Drive; +/-1,643 feet east of Riverdale Road, containing 6.42 acres in an area currently governed by Shelby Drive/Germantown Road Planned Development (P.D. 05-353cc).

Lowery

Case No. PD 08-312cc

Applicant: Mickell Lowery
ETI Corporation – Representative

Request: Planned development amendment to allow a Community Recreation Center

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

99 NOTICES MAILED ON AUGUST 8, 2008

39. RESOLUTION approving a planned development located on the south side of Fite Road; +800.6 feet east of North Watkins Street, containing 5.79 acres located in the Agricultural (AG) District.

Lowery

Case No. PD 08-313cc

Applicant: Dr. Neal & Susan Aguillard
Homer Branan, Atty. – Representative

Request: A planned development to permit the customizing, repairing, brokering and manufacturing of antique, sporting and collectible firearms and their parts and accessories

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

30 NOTICES MAILED ON AUGUST 8, 2008

40. RESOLUTION approving a planned development located on the west side of Prescott Road; +/-753.47 feet south of Winchester Road, containing 4.95 acres in the Single Family Residential (R-S8) District.

Lowery

Case No. PD 08-316

Applicant: Airfield Etc., Inc.
Stephanie Poole – Representative

Request: Planned development to allow an electrical contractor's office with outdoor storage, including an accessory material and equipment storage building

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

21 NOTICES MAILED ON AUGUST 8, 2008

41. RESOLUTION approving a located on the northeast corner of Peabody Avenue and Lemaster Street, containing 2.22 acres in the Single Family Residential Historical Conservation (R-S6(HC)) District.

Lowery

Case No. PD 08-319

Applicant: Grace St. Luke's Episcopal Church
Tom Beazley – Representative

Request: A planned development to permit institutional uses consisting of a private, church sponsored, day school (grades Pre K-9)

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

140 NOTICES MAILED ON AUGUST 8, 2008

42. RESOLUTION approving an appeal located on the southeast corner of Poplar Avenue and Interstate 240, containing 28.38 acres in an area currently governed by PD 90-312.

Lowery

Case No. PD 90-312

Appellant: WRI Ridgeway, LLC
Buckner Wellford – Representative

Request: Appeal provisions of the Land Use Control Board decision on
6/12/08 which approved a revised site plan for the Ridgeway
Trace Planned Development, subject to conditions

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: HOLD

ACTION REQUESTED: Take whatever action Council deems advisable

305 NOTICES MAILED ON AUGUST 8, 2008

43. RESOLUTION approving a special use permit located on the north side of E.H. Crump Boulevard; +138 feet west of S. Third Street (180-182 South Crump), containing 1.01 acres in the SCBID Gateway Commercial District. (Held from 7/15)
Lowery Case No. SUP 07-215

Applicant: Willie Nelson
Tim McCaskill – Representative

Request: Hotel

LUCB and OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

46 NOTICES MAILED ON JULY 3, 2008

44. RESOLUTION approving a special use permit located on the west side of Collierville-Arlington Road; +/-5,600 feet south of Macon Road, containing 35.27 acres in the Agricultural (AG) District.
Lowery Case No. SUP 08-205cc

Applicant: Collierville First Baptist Church
Fisher & Arnold, Inc. – Representative

Request: Special Use Permit to allow recreational and sports field lighting

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

62 NOTICES MAILED ON AUGUST 8, 2008

45. RESOLUTION approving a special use permit located on the south side of Locke-Cuba Road; +/-865 feet west of Woodstock-Cuba Road, containing 48.50 acres in the Agricultural (AG) District.

Lowery

Case No. SUP 08-216cc

Applicant: Habitat for Hope
Fisher & Arnold, Inc. – Representative

Request: Special Use Permit to allow a philanthropic institution, including residential cottages, nature trail, horse and barn stables, resident managers' quarters and an open recreation field

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

6 NOTICES MAILED ON AUGUST 8, 2008

GENERAL ITEM

46. RESOLUTION to transfer the hiring process of Police Officers to the Human Resources Division. (Held from 6/17; 7/1; 7/15; 8/5)

McCormick

ACTION REQUESTED: Adopt the resolution

PRESENTATIONS AND RECOGNITION OF VISITORS

47. RESOLUTION honoring staff at Charlie Morris Pool.

Strickland

ACTION REQUESTED: Adopt the resolution

48. RESOLUTION approving an honorary Street Name Change of Oak Street for Reverend Dr. James S. White.

Ford

ACTION REQUESTED: Adopt the resolution

APPEARANCE CARDS FOR PUBLIC SPEAKING

ADJOURNMENT

ADD-ONS

49. **ORDINANCE** to amend Title 6, Chapter 6-80, Article 7, Section 6-80-50 of the Code of Ordinances to establish a temporary fuel surcharge for the taxicab industry, up for F I R ST reading.

Consent

Ordinance No. 5275

ACTION REQUESTED: Adopt the ordinance on First reading

50. **RESOLUTION** approving the agreement between the City of Memphis, Tennessee and the Board of Education of the Memphis City Schools.

Halbert

ACTION REQUESTED: Adopt the resolution

51. **RESOLUTION** thanking Chairman Scott McCormick for his service as a City Councilman.

Lowery

ACTION REQUESTED: Adopt the resolution

52. **RESOLUTION** commemorating the life of Isaac Hayes.

Lowery

ACTION REQUESTED: Adopt the resolution

53. **RESOLUTION** amending the site plan conditions of a special use permit to conform with those approved the County Board of Commissioners on August 5, 2008. The City Council adopted this joint resolution on June 17, 2008 with the conditions as originally recommended by the Land Use Control Board.

Lowery

Case No. SUP 08-207cc

Located on the northside of Independence Road; \pm 250 feet east of Woodstock-Cuba Road, containing 10,000 square feet in the Floodway (FW) and Agricultural (AG) District

Applicant: Global Tower, LLC
Gloria Allmond, Baran Telecom/Shawn Massey, CCIM – Rep.

Request: 195 foot CMCS monopole cell tower

Recommendation: County Board of Commissioners: APPROVAL, with conditions

ADD-ONS

ACTION TAKEN BY COUNCIL ON THIS DATE

1. Through 7 – Approved
8. Public Hearing set for September 9, 2008
9. Failed
10. Through 23 – Approved
24. Through 26 – Dropped
27. Through 30 – Approved
31. Approved, as amended
32. Approved
33. Back to Committee on September 9, 2008
34. Through 36 – Approved
37. and 38 - Approved, as amended
39. Through 41 – Approved
42. Approved, as amended
43. Failed
44. Approved, as amended
45. Approved
46. Dropped
47. Through 53 – Approved

ACTION TAKEN ON THE MINTUES OF AUGUST 5, 2008

Approved